IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY FOURTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 21449 of 2004

Between:

Sri Veera Brahmendra Swamy Mining Company a partnershp firm, rep.by its Managing partner, K.SeshagiriRao
S/o.Veera Swamy, R/o. Flat Nos.5 and 6,
C&B Apartments, Durga Mitta, Nellore.

..... PETITIONER

AND

1. Government of India, rep.by its Secretary,

   Ministry of Coal & Mines,

   Department of Mines, Delhi.
2 Government of Andhra Pradesh,

   rep.by its Secretary,

   Industries & Commerce Department,

   Secretariat, Hyderabad.
3 Director of Mines & Geology,

   Govt., of A.P.BRKR Buildings,

   8th floor, Lower Tank Bund Road, Hyderabad.
4 Sri Gajula Khajamoinoddin,

   S/o.Rasool Saheb, R/o.Nagula Bhavi Street,
   Udayagiri (P&M), Nellore District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the

circumstances stated in the Affidavit filed herein the High Court will be pleased to issue any appropriate writ, order or direction, preferably a writ in the nature of Mandamus declaring the interim order dt.10-09-04 on the file of the 1st respondent, communicated in Letter No.2(4)/2004/RC-II dt.16-9-2004 as well as G.O.Ms.No.98 Industries & Commerce (M1) Department dt.3-4-2004 on the file of the 2nd respondent as being illegal, arbitrary and violative of Art.14 of the Constitution of India and also contrary to the provisions of the Mines and Minerals (Development & Regulation) Act, 1957 and the Rules made there under and consequently set aside the same.

Counsel for the Petitioner: MR.P.VENUGOPAL

Counsel for the Respondent No.1: MR.ARAJASHEKAR REDDY (SC FOR CG)

Counsel for the Respondents 2 and 3: G.P. for Industries.

The Court at the admission stage, made the following :

HONOURABLE SRI JUSTICE K.C.BHANU

WRIT PETITION No. 21449 Of 2004

ORDER:

The petitioner has filed this writ petition challenging the interim order dated 10-09-2004 on the file of 1st respondent, communicated in the letter No.2(4)/2004/RC-II, dated 16-09-2004 as well as G.O.Ms.No.98 Industries & Commerce (MI) Department dated 03-04-2004 on the file of the 2nd respondent.

2. The Learned counsel for the petitioner vehemently contended that the order granting mining lease to the 4th respondent under G.O.Ms.No.98, dated 03-04-2004 is totally illegal and void because it has

been passed without application of mind at all and the relevant factors have to be considered while granting licence for mining lease and therefore, it is liable to be set aside.

3. The learned Government Pleader for Industries opposed the same and contended that by an order in G.O.Ms.No.17019/MI(2)/03-2, dated 23-12-2003, the Government granted lease in favour of the 4th respondent herein. Admittedly, the petitioner filed a statutory revision before the Central Government challenging the order dated 23-12-2003 and the same is stated to be pending and when the petitioner made an application for interim direction, the same was rejected. He further contended that the proceedings dated 23-12-2003, with regard to the subject matter, was issued by the Principal Secretary to the Government and Commissioner for Industrial Promotion, and in pursuance of which only, the consequential G.O.Ms.No.98, dated 03-04-2004 was issued. Hence, the petitioner has no right to question the same.

4. Admittedly, the proceedings of the Principal Secretary to the Government and Commissioner for Industrial Promotion, dated 23-12-2003 were questioned, by way of filing revision, before the Central Government and it is stated to be pending. So, the petitioner cannot be permitted to prosecute the two remedies simultaneously.

5. Therefore, a necessary direction can be given to the Central Government to dispose of the revision petition filed by the petitioner within a period of six weeks from the date of receipt of a copy of this order, after affording reasonable opportunities to all the parties in the revision petition. If, for any reason, the Central Government is unable to dispose of the revision petition, within a period of six weeks, they shall come forward with an application for extension of time by showing sufficient reasons.

6. Accordingly, the Writ Petition is disposed of. There shall be no order as to costs.

_____

November 24, 2004

Issue C.C. in four days

B/o.

Kvr

To

1. The Secretary,Government of India,
   Ministry of Coal & Mines,
   Department of Mines, Delhi.

2 The Secretary,
   Government of Andhra Pradesh,
   Industries & Commerce Department,
   Secretariat, Hyderabad.

3 Director of Mines & Geology,
   Govt., of A.P.BRKR Buildings,
   8th floor, Lower Tank Bund Road,
   Hyderabad.

4. Two C.Cs to the GP for Industries,
   High Court of AP Buildings,

High Court of AP, Hyderabad. (O.U.T.)

5 Two C.Ds.